IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTEENTH DAY OF OCTOBER,
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION No.7188 OF 2006

Between:

M/s.Lakshmi Kalamandir, rep. by its
Partner P.Nagabhushanam.

..... PETITIONER

AND

The Entertainment Tax Officer-cum-Commercial
Tax Officer, Malkajgiri, Ranga Reddy District.

....RESPONDENT

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.7188 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

This writ petition is filed with a prayer as follows:

> **" … Hon'ble Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the notice of the respondent in G.I.No.DCR/2005-2006, dt.24.3.2006, demanding the petitioner to pay an amount of Rs.64,324/- as illegal, null, void, arbitrary and without jurisdiction; and to pass such other…"**

The petitioner is a partnership firm running a cinema theatre called Lakshmi Kalamandir in the Alwal Municipality of Ranga Reddy District. Admittedly, the petitioner is paying entertainment tax under Section 4(1) of the A.P. Entertainment Tax Act, 1939. The impugned notice dated 24.03.2006 was issued by the respondent to the petitioner. The impugned notice stated that G.O.Ms.No.1116, Revenue (CT.II) Department, dated 08.06.2005 declares that various Municipalities located in the peripheral area with Municipal Corporation of Hyderabad and Secunderabad Cantonment are to be treated as part of the Municipal Corporation of Hyderabad for the purpose of ceiling on maximum rates of tickets and the application of rate of tax. Alwal Municipality is one of those Municipalities. The notice refers to an Ordinance No.7 of 2005, which was published in the Gazette on 04.06.2005. The respondent in the said notice, therefore, demanded

certain amount as payable by the petitioner towards the tax in view of treatment of the Alwal Municipality also to be a part of the Hyderabad Municipal Corporation for the purpose of Entertainment Tax Act.

While ordering notice before admission on 13.04.2006, interim suspension of the impugned demand was granted. Counter-affidavit was filed by the respondent. The substance of the counter-affidavit is that Ordinance No.7 of 2005 brought about certain amendments to A.P. Entertainment Tax Act. Sub-section 4(1) of the Entertainment Tax Act came to be substituted and in the Explanation-2 to the substituted provision, a legal fiction is created, which is as follows:

> **"Explanation-II:- For the purpose of this sub-section "Municipal Corporation of Hyderabad" means any local area as notified by the Government under section 3 of the Hyderabad Municipal Corporations Act, 1955 and also includes trhe pheripheral areas of Alwal, Rajandra Nagar and Gaddi Annaram Municipalities."**

Therefore, the impugned notice is supported by the authority of law and the law demands that the cinema theatres situated in the Alwal Municipality are required to pay tax on par with the theatres located within the Municipal Corporation of Hyderabad.

Whether creation of such a fiction is valid or not, is not an issue before us in this writ petition.

In the circumstances, we do not see any substance in the writ petition to grant the relief as the one prayed for by the petitioner. Therefore, the writ petition is dismissed at the admission stage itself.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

19TH OCTOBER, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.7188 OF 2006
(Per Sri Justice J.Chelameswar)

18th OCTOBER, 2006